

TOWN OF TIVERTON  
ZONING BOARD OF REVIEW  
MINUTES

DECEMBER 5, 2007  
7:30 P.M.

The following petitions were received and were heard by the Tiverton Zoning Board on December 5, 2007 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, Jay Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt, Michael Fairhurst (alternate), & Raymond LaFazia (alternate).

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by Daniel J. & Jean M. Puerini of 596 Nanaquaket Road, Tiverton, RI requesting a variance from Article V Section 1 and Article V Section 3.d. of the Tiverton Zoning Ordinance in order to subdivide one lot into two, leaving an existing home closer to the rear yard setback than allowed and creating two substandard lots located at 596 Nanaquaket Road, Tiverton, RI being Block 90 Card 14 on Tiverton Tax Assessor's maps in a R80 zone.

**DECISION:** This petition was continued from last month due to the fact the board requested more information and documentation. Attorney Stetson Eddy appeared before the board on behalf of the petitioner and summarized last month's hearing; that is, that the Puerinis wished to have their lot subdivided into two individual lots.

Mr. Barker appeared before the board and testified about the layout of the land and his plan dated April 3, 2007. He also took measurements and determined that proposed Lot A would be 68,882 square feet and proposed Lot B would be 69,324 square feet. Mr. Barker stated in his opinion the requested variances would not alter the general character of the neighborhood and would not create any nuisance to the neighbors.

The Board went into executive session and discussed this petition. Ms. Gescheidt believed that the applicants caused their own hardship by merging these two lots together in the first place. Mr. Taylor agreed. Mr. Taylor stated that they now have a lot that is conforming and to make two lots out of that which would be nonconforming goes against what this board's duty is to accomplish.

Ms. Gescheidt made a motion to deny the variance because the petitioner hasn't established the standards that are set forth in Article 17, Section 2 and specifically there has been no proof relative to Subsection 3 that the unnecessary hardship which the applicant seeks to avoid shall not have been imposed by any prior action of the applicant and purely monetary gain or loss should not be considered to be a necessary hardship. Mr. Taylor seconded. The vote was unanimous. Voting were Chairman David Collins, Jay Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

2. An appeal has been filed by John & Eileen Moran et al appealing a decision of the Building Official to issue a building permit for a new yacht club structure dated December 1, 2006 at 58 Riverside Drive, Tiverton RI being Block 70 Card 5 on Tiverton Tax Assessor's maps and located in a R40 zone.

**DECISION:** No action was taken on this petition due to the fact this case went to court and a court order was issued.

3. An appeal has been filed by David M & Kathleen Campbell appealing a decision of the Building Official to issue a building permit for a new yacht club structure dated December 1, 2006 at 58 Riverside Drive, Tiverton RI being Block 70 Card 5 on Tiverton Tax Assessor's maps and located in a R40 zone.

**DECISION:** No action was taken on this petition due to the fact this case went to court and a court order was issued.

4. A petition has been filed by Richard & Beverly Poitras of 478 South Main Street, Fall River, MA requesting a Special Use Permit to Article VI, Section 7.a.(1) in order to install an advanced treatment individual sewage disposal system for gray water at 65 Edmond Lane, Tiverton, RI being Block 123 Card 20 on Tiverton Tax Assessor's Maps within 125 feet of Almy Brook whereby use is not allowed without a special use permit in a R80 zone.

**DECISION:** Attorney Raymond Holland appeared before the board representing the petitioner. Mr. Holland explained that the Poitras' had been before the board back in April of '04 requesting a special use permit to make the house bigger and at that time Mr. Cellemme made a motion to continue the matter so that they could go to DEM and get the appropriate approvals.

Mr. Holland explained they are looking for the special use permit to install a state of the art septic system on this property closer than the 125 foot requirement. Once they receive that approval, they will go to CRMC who will then be the last entity to approve such system. DEM has already reviewed this and specifically told the petitioners exactly where they need to install this system and the type of system that needs to be installed for this particular site.

The Deed was marked as Exhibit A. The Tax Assessor's Record was marked as Exhibit B. Marked as Exhibit C was the restriction document from DEM and marked as Exhibit D was the application for the permit.

Mr. Poitras testified that he is the owner of the property and currently the existing system is a shed/outhouse on the property with a small cesspool underneath that shed. He has no intention of increasing the size of the house. The house is currently a one

bedroom house and he would like to make it more of a year round house with a new septic system.

Mr. Smith appeared before the board and stated that he has been working on this project since 2003. They have appeared before the DEM and have worked on a septic design that the DEM has approved with a one bedroom residence restriction. They need the variance for less than 125 because of the lot. There is only 81 feet on one side, 91 feet on the other side. Mr. Smith described the septic system as follows: the black water will go into a compost toilet, so it's a self contained unit, so there will be no discharge of black water into the environment. The gray water which is your sinks and your showers and the relatively clean discharge is going to go into a bottomless sand filter. On the front end of that bottomless sand filter is an ultraviolet disinfection system to kill any pathogens, any bacteria that might be in the waste stream that would normally be entered into the ground. The outhouse will be demolished and any bad soil will be taken out. That area will then be used for a portable holding tank that will be elevated and connected to the house. Said tank holds 1,500 gallons of water. It is Mr. Smith's opinion that this design will not adversely affect the character of the neighborhood and will not be a nuisance to the neighborhood. It will be a much needed improvement.

Mr. Nathan Goddfrey appeared before the board and stated that this property meets and exceeds the six step special permit test. It is his opinion that this will be an improvement to the area, and will not be a detriment to the public health, safety, morals and welfare of the community.

Multiple neighbors appeared before the board expressing their concern about the wetlands, drainage, water overflow issues and possible impacts on the surrounding waterfront.

The Board went into executive session and discussed the petition. Mr. Jackson made a motion to grant the special use permit based upon the fact that the public convenience and welfare will be served, that it will not be detrimental to public health, safety and morals or welfare, that it is compatible with neighboring uses, that being residential, and will not adversely effect the character of the area. It will not create a nuisance in the neighborhood and that there is no vehicle or pedestrian movement to be considered here and that this does provide the adequate sanitary sewerage disposal system that this property needs and it's compatible with the Comprehensive Community Plan since the Town of Tiverton is moving towards the removal of cesspools. Ms. Gescheidt seconded stating that the board must also make findings under Section 3, Subsection D that there has been evidence adduced that there will be no adverse impacts to the functional values of the wetlands or water body and that these functional values include but are not limited to ground water recharge and discharge, fishing and wildlife habitat, flood storage, erosion, sediment control, pollutant uptake and public recreation and education and there are additional seven factors that the board should also incorporate by reference, as well as the ones in (e) and (m).

The Vote was 4-1. Voting for were Chairman David Collins, Jay Jackson, Richard Taylor, and Lise Gescheidt. Voting against was Susan Krumholz. The motion passed.

5. A petition has been filed by Robert D Batch of 512 Riverside Drive, Tiverton, RI requesting a variance to Article V, Section 1 of the Tiverton Zoning Ordinance in order to construct an addition to the existing dwelling located at 512 Riverside Drive, Tiverton RI being Block 56 Card 13 on Tiverton Tax Assessor's maps exceeding building lot coverage of 25% and located in an R40 zone.

**DECISION:** Andrew DiGiammo, architect, appeared before the board on behalf of Robert Batch. Robert Batch also appeared before the board.

Mr. DiGiammo stated three issues they wanted to reach with the addition to the existing dwelling. Issue number one is they want to create living on one level which would be conducive to a retirement home and that would include a master bedroom and master bath on the first level and a one stall garage so that you could pull into the garage attached to the home and go into the living space.

The second issue is the house was remodeled in the 1980's and aesthetically the cottage appearance was taken away from it and it was closed off to the street. They want to bring back that cottage aesthetic back and open it back up to the street. The third is that some of the living spaces were also blocked off from the beautiful view beyond and they wished to open it up. The lot coverage is currently 33 percent. The plan calls for 44 percent.

The Board had questions regarding the floor plan. The floor plan includes two bedrooms on a second floor. The petitioners also did a system suitability study and it came back for a project this size to have a new septic design. One neighbor voiced their approval toward this project.

The Board went into executive session and discussed this petition. Mr. Jackson made a motion to deny this variance. Mr. Taylor seconded. The board agreed there was no hardship presented and also it would be an intensification of use of this property. The vote was unanimous. Voting were Chairman David Collins, Jay Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

**Administrative Items:** Mr. Taylor made a motion to approve last month's minutes. Ms. Gescheidt seconded. The Vote was unanimous.

Mr. Jackson brought up the issue of attendance, that each board member needs to be present so many times according to the Town Charter.

Ms. Krumholz made a motion to adjourn at 10:49 p.m. Ms. Gescheidt seconded. The Vote was unanimous.

ZBR:MAE

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, and Commissioner for the State of Rhode Island, do hereby certify that the foregoing pages 1 through 5 are complete, true and accurate to the best of my knowledge, skill & ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 1st day of January, 2008.

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Mary Ann C. Escobar, RPR

My Commission expires: August 16, 2011.

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LEDGEWOOD COURT REPORTING  
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